

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

FILED
IN CLERKS OFFICE

2004 OCT -4 P 1:38

HOWARD J. HALL,

Plaintiff

v.

OPENTV, INC., JAMES ACKERMAN
And PETER BOYLAN, III,

Defendants

C.A. No. 04-10413-PBS

U.S. DISTRICT COURT
DISTRICT OF MASS.

ASSENTED TO MOTION TO MODIFY THE SCHEDULING ORDER

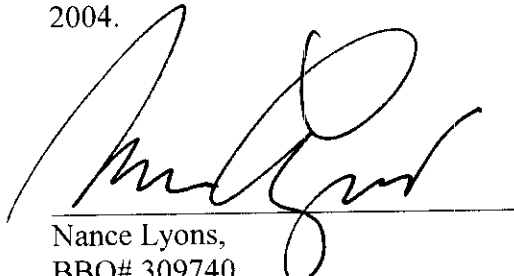
Plaintiff in the above captioned matter moves the court for modification of the scheduling order.

1. Due to illness of prior counsel, Plaintiff retained new counsel in May of 2004. Notice of Appearance was filed with the Court on May 3, 2004.
2. New counsel did not have the opportunity to participate in the scheduling of the case.
3. As a result of discovery to date, Plaintiff will file a Motion to Amend the Complaint to add a claim for deceit, add a party defendant and add additional allegations in support of claims already pleaded. Notwithstanding their assent to the instant motion, Defendants reserve their right to object to Plaintiff's Motion to Amend the Complaint.
4. The parties have exchanged requests for production and received responses.
5. The parties have taken the depositions of Plaintiff, defendant James Ackerman, and Mark Meagher, an employee of defendant OpenTV, Inc. In the event Plaintiff's Motion to Amend the Complaint is successful, Defendants shall have the opportunity to redepose Plaintiff with respect to any additional factual allegations and legal claims, and how such additional allegations and claims relate to those already pled.
6. Depositions were delayed due to scheduling issues in this bi-coastal suit and were completed on September 14, 2004, one day before the close of the discovery period under the Court's order.

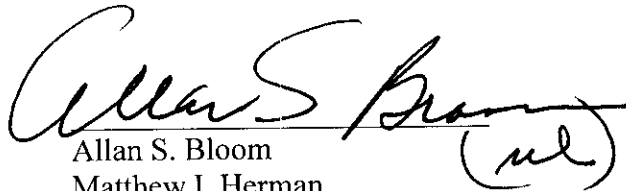
7. Mediation of this matter was originally scheduled before Judge Mazzone on September 13, 2004. Judge Mazzone was unable to proceed with mediation on that date and it was rescheduled for Tuesday, September 28, 2004 before Judge Judith Dein. Progress was made toward settlement. Judge Dein has scheduled a conference call with the parties for October 12, 2004 to continue the parties' efforts to resolve this matter without the necessity of further litigation.
8. If settlement is achieved in the near future, expenses and resources associated with the preparation of a motion for summary judgment by October 15, 2004 could be avoided.
9. Plaintiff desires to serve interrogatories on the Defendants and additional requests for the production of documents.
10. Motions to Compel may be required.
11. The extension requested postpones the proposed trial date by only ten weeks.

A proposed modification to the scheduling Order is attached hereto and incorporated herein by reference.

Sworn to by the parties hereto under the pains and penalties of perjury this 1st day of October 2004.



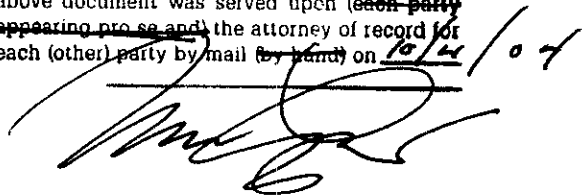
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I hereby certify that a true copy of the
above document was served upon ~~(each party~~
~~appearing pro se and~~ the attorney of record for
each (other) party by mail ~~(by hand)~~ on 10/14/04



MODIFICATION OF SCHEDULING ORDER

Plaintiff seeks approval of the following scheduling order:

	From	To
a. Conclusion of Discovery	September 15, 2004	November 1, 2004
b. Summary Judgment Filing	October 15, 2004	December 20, 2004
c. Reply Brief on Summary Judgment	October 29, 2004	January 14, 2005
d. Hearing on Summary Judgment or Pretrial Conference	November 11, 2004	February 4, 2005
e. Final Pretrial Conference	January 4, 2005	March 14, 2005
f. Jury Trial	January 10, 2005	March 21, 2005

Date: October 4, 2004